

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 95-48268

MTG, Inc.,

Chapter 7

Debtor

Judge Thomas J. Tucker

GUY C. VINING, TRUSTEE, etc.

Plaintiff,

v.

Adv. Pro. No. 03-4950

COMERICA BANK, et al.,

Defendants.

**ORDER DENYING, AS UNNECESSARY, COMERICA BANK'S MOTION TO
FILE NOTICE OF NONPARTY FAULT (DOCKET # 402)**

This case is before the Court on a motion filed by Defendant Comerica Bank entitled "Comerica Bank's Motion to File Notice of Nonparty Fault" (Docket # 402, the "Motion"), seeking permission to file a notice of the potential fault of Richard May under Mich.Ct.R. 2.112(K). The Plaintiff Trustee filed a response to the Motion. Both Comerica Bank and the Trustee agree that Mich.Ct.R. 2.112(K) does not apply in a federal court case, such as this one.¹

The Court concludes that a hearing on the Motion is not necessary. The Court agrees that Mich.Ct.R. 2.112(K) does not apply in federal court. *See Dresser v. Cradle of Hope Adoption Center, Inc.*, 421 F. Supp. 2d 1024, 1028 (E.D. Mich. 2006).

¹ See Comerica Bank's Br. in Supp. of Mot. To File Notice of Nonparty Fault (Docket 402) at 1 n.1 ("Comerica does not believe that M.C.R. 2.112(K) is applicable in federal bankruptcy court"); Trustee's Response to Comerica Bank's Mot. to File Notice of Non-Party Fault (Docket # 412) (arguing that Fed. R. Civ. P. 8, rather than Mich. Ct. R. 2.112(K) applies in bankruptcy court).

Accordingly,

IT IS ORDERED that the Motion (Docket # 402), is DENIED, as unnecessary.

Signed on April 12, 2010

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge